

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEANIECE D. CARTER,

Plaintiff,

No.19-12381

v.

District Judge Paul D. Borman
Magistrate Judge R. Steven Whalen

UNIVERSITY OF TEXAS AT
DALLAS, ET AL.,

ORDER

On August 12, 2019, Plaintiff Geaniece D. Carter filed a *pro se* civil complaint [ECF No. 1]. Before the Court is her motion to file a second amended complaint [ECF No. 36].

Plaintiff filed first amended complaint on September 23, 2019 [ECF No. 13]. On December 11, 2019, Judge Borman, adopting my Report and Recommendation, dismissed the Defendants' motion to dismiss the original complaint (which was superseded by the first amended complaint) as moot [ECF No. 32]. In the meantime, the Defendants filed a motion to dismiss the first amended complaint, which is pending [ECF No. 17]. That motion raises a number of issues, including statute of limitations, Eleventh Amendment immunity, lack of personal jurisdiction, and failure to state a claim.

In her present motion to amend, Plaintiff seeks to add claims under 42 U.S.C. § 1983 and the Ninth Amendment. Her proposed amendment does not address the issues raised in the Defendants' amended motion to dismiss; in other words, if the Defendants prevail on those issues as to Plaintiff's first amended complaint, they will prevail as to her second amended complaint.

At this time, would not be an efficient use of judicial resources to address the issue of whether Plaintiff's proposed amended claims would be futile. Rather, the Court will deny her second motion to amend without prejudice, pending the disposition of the Defendants' amended motion to dismiss. If the Plaintiff survives that motion to dismiss, she may re-file her second motion to amend, and the Court will consider the substance of her motion at that time.

Plaintiff's second motion to amend [ECF No. 36] is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: December 30, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on December 30, 2019, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen